

October 4, 2021 - WORK SESSION

The Work Session of the Town of Dickinson Town Board was called to order by Supervisor Michael A. Marinaccio at 5:30 PM on Monday, October 4, 2021, at the Town Hall, 531 Old Front Street, Binghamton, New York and via Zoom.

<https://us02web.zoom.us/j/85472131659?pwd=WFJtNGJlU3FQMIFDOEVjZitSTHk0Zz09>

Meeting ID: 854 7213 1659

Passcode: 942579

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The members of the Town Board present were:

**Michael A. Marinaccio, Supervisor
Stephen M. Gardner, Councilperson
Sharon M. Exley, Councilperson
Thomas J. Burns, Councilperson**

Absent:

Danny F. Morabito, Councilperson

Also attending:

**Nathan D. VanWhy, Esq., Attorney for the Town
Susan M. Cerretani, Town Clerk**

Also in attendance:

**Code Enforcement Officer Stephen Rafferty, Public Works
Commissioner Joel Kie, Zoning Board Chair Jeanne Compton,
Engineer for the Town Ron Lake, and Coughlin & Gerhart
Associate Gina Middleton.**

5:30 PM: PUBLIC HEARING REGARDING 36 PULASKI STREET

The owner of the 36 Pulaski Street property was not present for the Public Hearing nor were there any public participants. Supervisor Marinaccio welcomed any comments regarding the property. He stated that recently, our Code Enforcement officials boarded up the property due to very unsafe structural conditions inside and outside of the residence plus very unhealthy conditions inside. Crates of live chickens were discovered and removed and placed in a free-range environment. Though no one was living in the house, a mattress and other items indicated some sort of activity. Taxes on this home have not been paid for the past two years and the County is about a year or less in taking over the property. There are other numerous violations on this property.

Attorney Nathan VanWhy opened the Public Hearing stating this is a proceeding pursuant to Chapter 244 of the Town Code - the Unsafe Buildings Law. That law required that notice of the hearing be served on the property owner either personally & by registered mail; and, if served by registered mail, for it to be posted on the property as well, in order to provide the property owner the full opportunity to be here. Prior to hearing from the Code Officer and the Engineer specifically what their recommendations are, Mr. VanWhy wanted to make sure that the record reflects the documents that we have showing that service was attempted. We have received returned registered mail from the U S Postal Service indicating that the property is vacant. We have the Post Office's tracking efforts and the paid receipt.

October 4, 2021 - WORK SESSION

Attorney VanWhy handed documents to Town Clerk Cerretani to mark as exhibit #1, #2 and #3.

EXHIBIT #1

Included registered mailing of the notice packet.

EXHIBIT #2

Included affidavit of posting and packet.

On September 22nd, Code Enforcement Officer Rafferty posted the packet containing the Resolution, Notice of Public Hearing, Condemnation Order, Notice of Unsafe Structure, and Right of Entry on the 36 Pulaski Street property and signed the affidavit of posting on September 28th.

Exhibit #3

Copy of Town Engineer Ron Lake's report with photos included.

Mr. VanWhy asked Mr. Lake to briefly let the Board and the record reflect the reasons for his findings that 36 Pulaski Street is an unsafe structure.

Mr. Lake reported that part of the roof is missing. Windows are missing. You can see straight out through roof. There is a good probability that there is mold. There is feces from the chickens. It appears that the house has been in that condition for a period of time.

Mr. Lake's recommendation is that the property owner not be allowed back in there except under the direction of a structural engineer to come up with a plan to remedy and how it will take place. Other than that, Mr. Lake said he thinks that the structure should be demolished.

Attorney VanWhy, for purposes of the record, asked Mr. Lake several questions:

"What are your credentials?" Mr. Lake stated that he is a Professional Engineer in the State of New York and the State of Pennsylvania.

"How long have you been working as an engineer?"

Mr. Lake replied, "40-50 years."

Supervisor Marinaccio commented that he is in communication with the County regarding this property.

When asked by Attorney VanWhy if he had anything to provide, Code Enforcement Officer Rafferty stated that he concurred with Engineer Lake's recommendation.

Attorney VanWhy stated that obviously the property owner is not here tonight and because the registered mail was not delivered and was returned from the Post Office, Mr. VanWhy raised a concern that the property owner might argue that he was not provided an adequate notice. The Town Board could move forward with the understanding that that is the potential claim the property owner might make. The Board could also offer the property owner a second opportunity; try to attempt to track him down again.

October 4, 2021 - WORK SESSION

Mr. Rafferty stated that the property owner is still receiving mail at that address. He stated that he sent mail to him at that address the week before and it didn't come back. Attorney VanWhy asked Mr. Rafferty, for the record, if he spoke with the property owner. Mr. Rafferty replied in the affirmative. Mr. VanWhy continued "and did he tell you that this is where the mail should be sent?" Mr. Rafferty again replied yes.

Supervisor Marinaccio stated that it is his opinion that the house is beyond repair. He added that when one of the police officers went into the house to investigate, he almost went through the floor as it is rotted right through.

Supervisor Marinaccio asked if we move forward without the owner appearing, could we take action at the next meeting? Mr. VanWhy replied that a resolution has been prepared for next week's meeting declaring and finding the structure to be unsafe. Once the board votes, the property owner could upon the engineer's recommendation, file a plan to secure and make safe the structure or demolish it within 30 days of the Town's order. If the property owner fails to do so, the Town Board could on its own move forward and do either of those options. Mr. Marinaccio is concerned that the building will not hold up through the winter especially if there is a heavy snowstorm. He is concerned about someone getting hurt. Supervisor Marinaccio remarked that if the County eventually takes it over it could be over a year.

A discussion continued regarding the structure's condition and potential for collapse and the cost of demolition. The Town can demolish or take action to make it secure. Mr. Kie stated that the whole front wall is structurally compromised because of the roof leaking. It appears that the front porch is the only thing structurally holding it up and eventually the weight of the water will cause it to collapse, and we can't predict how it would collapse; it could end up in the road.

Supervisor Marinaccio mentioned the possibility of The Land Bank helping with demolition if funds are available come January.

No comments from the Public.

Supervisor Marinaccio closed the Public Hearing at 5:47.

Exhibits placed on file in the Town Clerk's Office.

**SUPERVISOR'S REPORT
WORK SESSION
October 4, 2021**

1. Tonight's Public Hearing is in regard to the house located at 36 Pulaski. We welcome any comments on the property. Recently, our Code Enforcement officials boarded up the property due to very unsafe structural conditions inside and outside of the residence plus very unhealthy conditions inside. Crates of live chickens were discovered and removed and placed in a free-range environment. Though no one was living in the house, we found a mattress and other items indicating some sort of activity. Taxes on this home have not been paid for the past 2 years and the county is about a year or less in taking over the property. There are other numerous violations on this property.

October 4, 2021 - WORK SESSION

SUPERVISOR’S REPORT CONTINUED:

2. We are working on our new video and sound systems in this room. There may be a few issues with it as we move forward. If we become disconnected to the public, please refer to the work session minutes that will be published soon.
3. Following up on the notice from **The New York State Department of Transportation** dated June 29,2021: This is to advise you the **NYSDOT** will temporarily close the ramp at Exit 72 (Prospect St./ Mygatt St.) on westbound NY State Route 17 beginning Tuesday, October 12th. The ramp closure is expected to last 3 days, weather permitting, to facilitate a pavement maintenance and repair project on the ramp. Signed detours will direct motorists to continue westbound on route 17 to Exit 71S (Johnson City) then westbound (left) on Prospect Street, back to Mygatt Street. A detour map appears below.
4. **TRAVEL ADVISORY: LEFT LANE CLOSURE ON EXIT 72A RAMP FROM STATE ROUTE 17 EAST TO I-81 NORTH IN BINGHAMTON**

The **New York State Department of Transportation** is advising motorists of a lane closure on the Ramp (Exit 72A) from State Route 17 Eastbound to I-81 Northbound in the city of Binghamton, Broome County to accommodate a pavement maintenance project. The left lane will be closed from 9:00 a.m. to 3:00 p.m. on Monday, October 4. The left lane will close again at 9:00 a.m. on Tuesday, October 5 and remain closed through 5:00 p.m. Thursday, October 7.

Motorists should plan for the possibility of moderate delays at peak commuting times while the lane is closed. Motorists are urged to slow down and drive responsibly in work zones. Fines are doubled for speeding in a work zone. Convictions of two or more speeding violations in a work zone could result in the suspension of an individual’s driver license.

5. We will be conducting a Public Hearing in the near future regarding the Town’s 2022 Budget. A great deal of effort was put in by staff and the board members to produce another great budget for the town.
6. In regard to the **SAM.gov** application that I have been working on for the past month or so, the application was finally approved last week. More on this next week.

ATTORNEY

2022 BUDGET

Attorney VanWhy asked to have a resolution placed on next week’s meeting agenda to schedule a Public Hearing for the **2022 Budget Vote** for November 1, 2021.

October 4, 2021 - WORK SESSION

CRACKER BARREL OLD COUNTRY STORE RESTAURANT WINE APPLICATION

Attorney VanWhy stated Town Clerk Cerretani received a Restaurant Wine Application to the **New York State Liquor Authority** and that this is a routine type of notice to municipalities asking if there is any reason why you would oppose this application. The application would allow for beer and wine to be served. Mr. VanWhy stated that a resolution to approve the application will be placed on next week's agenda.

LITIGATION 80 SUNSET DRIVE

Attorney VanWhy introduced Coughlin & Gerhart Associate Gina Middleton who has been in communication with Mr. Florance's attorney Rick Miller regarding the easement litigation on the 80 Sunset Drive property. The documents have been received and once we receive the signed originals we can proceed to file.

APPRAISAL ON PROPERTY NEXT TO TOWN GARAGE

Attorney VanWhy reported that he hasn't heard back from Mr. Mead regarding the property next to the Town Garage. He will be reaching out to Mr. Mead and hopefully have a better update and a contract ready for the November meeting.

PUBLIC WORKS

- Public Works Commissioner Kie reported that the City of Binghamton blacktopped a 330-foot section of Bigelow Street. Public Works Commissioner sent a thank you note. The work was done at our cost.
- The highway department has been working on leaf pickup and yard waste pickup.

CODE ENFORCEMENT/ZONING BOARD

- We have received a Spiediefest Fireworks permit application.
- Mr. Rafferty reported there were three Zoning Board cases last week and he is expecting two additional cases this week. There was a discussion about the Dunkin Donuts case - the 239 is at the County for review. This same location was reviewed in 2016 for Dunkin Donuts and was denied. Nothing has changed since the last try. Mr. Rafferty recommended that the board wait to act until the Department of Transportation comments are received. Supervisor Marinaccio agreed that it is a good idea to wait for the **DOT** and the County recommendation. Attorney VanWhy stated that the board could take action now and not wait for the County. As a legislative action re-zoning is voluntary in that no one can force the Town to re-zone a property. Supervisor Marinaccio stated that he prefers to wait for the Regular Meeting to take action.

October 4, 2021 - WORK SESSION

- Mr. Rafferty reported that **Speedway** is going to change the pylon sign so there won't be any flashing lights. They are going to apply for a variance for digital pump lights at the pump islands.

PLANNING BOARD

There was a Planning Board meeting on the 27th of September. The applicant for the Solar project is expecting to submit some additional information. He will be providing a paper copy of **SWWP** for Ron Lake to review and provide some comments. They will be sending in an updated final site plan. Mr. VanWhy stated that it was unfortunate that there was not a quorum, but there was no action that the Planning Board would have been taking, so it all worked out ok.

PERSONNEL

- Councilperson Gardner reported that there is an employment opportunity, which has been posted on social media, in the town Clerk's Office for a Deputy Town Clerk. The current Deputy Clerk, Karen O'Neil is planning on retiring at the end of the year.
- Travis Kraack resigned from the Highway Department and Adam Howe has been hired. The Highway Department needs to replace the three employees that will be retiring at the end of the year.

Councilperson Exley reported that her neighbor told her that there is a house on Glenwood where there are chickens running around the yard. She didn't know the house number.

On motion by Supervisor Marinaccio, the work session was adjourned by a motion from Councilperson Burns and seconded by Councilperson Gardner at 6:13 PM.

Respectfully submitted,

Susan M. Cerretani
Town Clerk